

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

KEVIN LEE GREGORY, #09170-087,

Petitioner,

v.

ACTION NO. 2:23cv447

COMMONWEALTH OF VIRGINIA and

ROY CHEATAM, Warden,

Respondents.

O R D E R

This matter is before the Court on the motion for default judgment filed by *pro se* petitioner Kevin Lee Gregory (“Gregory”). ECF No. 9. For the reasons discussed below, the motion for default judgment is **DENIED**.

Gregory, a Florida inmate, submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging a detainer lodged by the Circuit Court for Stafford County, Virginia. ECF No. 1, at 1, 5. On November 9, 2023, the Court ordered respondent Roy Cheatam, Warden of the United States Penitentiary Coleman II in Coleman, Florida, to answer the petition within 60 days. ECF No. 7. On January 22, 2024, Gregory filed a motion for default judgment requesting that the Court enter a default judgment and dismiss the criminal charges pending in Stafford County for failure to prosecute in accordance with the Interstate Agreement on Detainers Act. ECF No. 9.

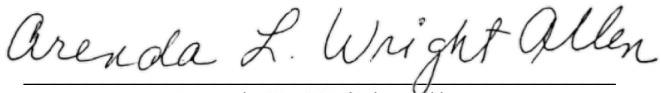
On February 8, 2024, the Court ordered the correct respondent in this action challenging a Virginia detainer, the Commonwealth of Virginia, to answer the petition within 30 days. ECF No. 10. On February 28, 2024, the Court granted a motion for extension of time to answer and extended

the Commonwealth of Virginia's time to answer to April 8, 2024. ECF No. 16. On March 27, 2024, the Commonwealth of Virginia filed a Rule 5 answer and motion to dismiss the petition. ECF Nos. 19–22. Gregory filed responses to the motion to dismiss on June 6, 2024, and August 29, 2024. ECF Nos. 28, 36.¹ This matter was referred to the United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation.

The report and recommendation, filed August 29, 2024, recommends that Gregory's motion for default judgment be denied. ECF No. 35. Gregory objected to the report and recommendation on September 12, 2024, requesting the relief sought in the petition—that the Court order the Circuit Court for Stafford County to dismiss the charges pending against him. ECF No. 37.

The Court, having reviewed the record and upon *de novo* consideration of the matters objected to, does hereby adopt and approve the findings and recommendations set forth in the report and recommendation. The Court, therefore, **ORDERS** that the motion for default judgment, ECF No. 9, is **DENIED**. The Court will address Gregory's petition, ECF No. 1, and the motion to dismiss the petition, ECF No. 19, in a separate order.

The Clerk shall mail a copy of this order to Gregory and counsel of record for respondent.



Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia
September 23, 2024

¹ On August 8, 2024, in an abundance of caution and deference to Gregory's *pro se* status, the Court advised Gregory of his rights when a dispositive motion is filed and granted Gregory an additional 21 days to respond to the pending motion to dismiss. ECF No. 34.